



Senate

General Assembly

File No. 460

January Session, 2009

Substitute Senate Bill No. 1106

Senate, April 6, 2009

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE PROCESS OF REMEDIATION OF
RELEASES OF HAZARDOUS WASTE AND HAZARDOUS
SUBSTANCES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-6u of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) For the purposes of this section and sections 2, 3 and 4 of this act:

4 (1) "Commissioner" means the Commissioner of Environmental
5 Protection, or his designee;

6 (2) "Parcel" means a piece, tract or lot of land, together with
7 buildings and other improvements situated thereon, a legal description
8 of which piece, parcel, tract or lot is contained in a deed or other
9 instrument of conveyance and which piece, tract or lot is not the
10 subject of an order or consent order of the commissioner which
11 involves requirements for investigation or reporting regarding
12 environmental contamination;

- 13 (3) "Person" means person, as defined in section 22a-2;
- 14 (4) "Pollution" means pollution, as defined in section 22a-423;
- 15 (5) "Release" means any discharge, uncontrolled loss, seepage,
16 filtration, leakage, injection, escape, dumping, pumping, pouring,
17 emitting, emptying or disposal of oil or petroleum or chemical liquids
18 or solids, liquid or gaseous products or hazardous wastes;
- 19 (6) "Residential activity" means any activity related to (A) a
20 residence or dwelling, including, but not limited to, a house,
21 apartment, or condominium, or (B) a school, hospital, day care center,
22 playground or outdoor recreational area;
- 23 (7) "Substance" means an element, compound or material which,
24 when added to air, water, soil or sediment, may alter the physical,
25 chemical, biological or other characteristics of such air, water, soil or
26 sediment;
- 27 (8) "Upgradient direction" means in the direction of an increase in
28 hydraulic head; and
- 29 (9) "Technical environmental professional" means an individual,
30 including, but not limited to, an environmental professional licensed
31 pursuant to section 22a-133v, who collects soil, water, vapor or air
32 samples for purposes of investigating and remediating sources of
33 pollution to soil or waters of the state and who may be directly
34 employed by, or retained as a consultant by, a public or private
35 employer.
- 36 (b) (1) If a technical environmental professional determines in the
37 course of investigating or remediating pollution after October 1, 1998,
38 which pollution is on or emanating from a parcel, that such pollution is
39 causing or has caused contamination of a public or private drinking
40 water well with a substance for which the Commissioner of
41 Environmental Protection has established a ground water protection
42 criterion in regulations adopted pursuant to section 22a-133k, as
43 amended by this act, at a concentration above the ground water

44 protection criterion for such substance, such professional shall notify
45 his client and the owner of the parcel, if the owner can reasonably be
46 identified, not later than twenty-four hours after determining that the
47 contamination exists. If, seven days after such determination, the
48 owner of the subject parcel has not notified the commissioner, the
49 client of the professional shall notify the commissioner. If the owner
50 notifies the commissioner, the owner shall provide documentation to
51 the client of the professional which verifies that the owner has notified
52 the commissioner.

53 (2) The owner of a parcel on which exists a source of contamination
54 to soil or waters of the state shall notify the commissioner if such
55 owner becomes aware that such pollution is causing or has caused
56 contamination of a private or public drinking water well with a
57 substance for which the commissioner has established a ground water
58 protection criterion in regulations adopted pursuant to section 22a-
59 133k, as amended by this act, at a concentration at or above the ground
60 water protection criterion for such substance. Notice under this section
61 shall be given to the commissioner (A) orally, not later than one
62 business day after such person becomes aware that the contamination
63 exists, and (B) in writing, not later than five days after such oral notice.

64 (c) (1) If a technical environmental professional determines in the
65 course of investigating or remediating pollution after October 1, 1998,
66 which pollution is on or emanating from a parcel, that such pollution is
67 causing or has caused contamination of a public or private drinking
68 water well with: (A) A substance for which the commissioner has
69 established a ground water protection criterion in regulations adopted
70 pursuant to section 22a-133k, as amended by this act, at a
71 concentration less than such ground water protection criterion for such
72 substance; or (B) any other substance resulting from the release which
73 is the subject of the investigation or remediation, such professional
74 shall notify his client and the owner of the parcel, if the owner can
75 reasonably be identified, not later than seven days after determining
76 that the contamination exists.

77 (2) The owner of a parcel on which exists a source of pollution to
78 soil or the waters of the state shall notify the commissioner if such
79 owner becomes aware that such pollution is causing or has caused
80 contamination of a private or public drinking water well with: (A) A
81 substance for which the commissioner has established a ground water
82 protection criterion in regulations adopted pursuant to section 22a-
83 133k, as amended by this act, at a concentration less than such ground
84 water protection criterion for such substance; or (B) any other
85 substance which was part of the release which caused such pollution.
86 Notice under this subdivision shall be given in writing not later than
87 seven days after the time such person becomes aware that the
88 contamination exists.

89 (d) (1) If a technical environmental professional determines in the
90 course of investigating or remediating pollution after October 1, 1998,
91 which pollution is on or emanating from a parcel, that such pollution
92 of soil within two feet of the ground surface contains a substance,
93 except for total petroleum hydrocarbon, at a concentration at or above
94 thirty times the industrial/commercial direct exposure criterion for
95 such substance if the parcel is in industrial or commercial use, or the
96 residential direct exposure criterion if the parcel is in residential use,
97 which criteria are specified in regulations adopted pursuant to section
98 22a-133k, as amended by this act, such professional shall notify his
99 client and the owner of the parcel, if such owner is reasonably
100 identified, not later than seven days after determining that the
101 contamination exists, except that notice will not be required if the land-
102 use of such parcel is not residential activity and the substance is one of
103 the following: Acetone, 2-butanone, chlorobenzene, 1,2-
104 dichlorobenzene, 1,3-dichlorobenzene, 1,1-dichloroethane, cis-1,2-
105 dichloroethylene, trans-1,2-dichloroethylene, ethylbenzene, methyl-
106 tert-butyl-ether, methyl isobutyl ketone, styrene, toluene, 1,1,1-
107 trichloroethane, xylenes, acenaphthylene, anthracene, butyl benzyl
108 phthalate, 2-chlorophenol, di-n-butyl phthalate, di-n-octyl phthalate,
109 2,4-dichlorophenol, fluoranthene, fluorene, naphthalene,
110 phenanthrene, phenol and pyrene.

111 (2) The owner of the subject parcel shall notify the commissioner in
112 writing not later than ninety days after the time such owner becomes
113 aware that the contamination exists except that notification will not be
114 required if by the end of said ninety days: (A) The contaminated soil is
115 remediated in accordance with regulations adopted pursuant to
116 section 22a-133k, as amended by this act; (B) the contaminated soil is
117 inaccessible soil as that term is defined in regulations adopted
118 pursuant to section 22a-133k, as amended by this act; or (C) the
119 contaminated soil which exceeds thirty times such criterion is treated
120 or disposed of in accordance with all applicable laws and regulations.

121 (e) (1) If a technical environmental professional determines in the
122 course of investigating or remediating pollution after October 1, 1998,
123 which pollution is on or emanating from a parcel, that such pollution is
124 causing or has caused ground water within fifteen feet beneath an
125 industrial or commercial building to be contaminated with a volatile
126 organic substance at a concentration at or above thirty times the
127 industrial/commercial volatilization criterion for ground water for
128 such substance or, if such contamination is beneath a residential
129 building, at a concentration at or above thirty times the residential
130 volatilization criterion, which criteria are specified in regulations
131 adopted pursuant to section 22a-133k, as amended by this act, such
132 professional shall, not later than seven days after determining that the
133 contamination exists, notify his client and the owner of the subject
134 parcel, if such owner can reasonably be identified.

135 (2) The owner of such parcel shall notify the commissioner in
136 writing not later than thirty days after such person becomes aware that
137 the contamination exists except that notification is not required if: (A)
138 The concentration of such substance in the soil vapor beneath such
139 building is at or below thirty times the soil vapor volatilization
140 criterion, appropriate for the land-use for the parcel, for such
141 substance as specified in regulations adopted pursuant to section 22a-
142 133k, as amended by this act; (B) the concentration of such substance in
143 groundwater is below thirty times a site-specific volatilization criterion
144 for ground water for such substance calculated in accordance with

145 regulations adopted pursuant to section 22a-133k, as amended by this
146 act; (C) ground water volatilization criterion, appropriate for the land-
147 use of the parcel, for such substance specified in regulations adopted
148 pursuant to section 22a-133k, as amended by this act, is fifty thousand
149 parts per billion; or (D) not later than thirty days after the time such
150 person becomes aware that the contamination exists, an indoor air
151 monitoring program is initiated in accordance with subdivision (3) of
152 this subsection.

153 (3) An indoor air quality monitoring program for the purposes of
154 this subsection shall consist of sampling of indoor air once every two
155 months for a duration of not less than one year, sampling of indoor air
156 immediately overlying such contaminated ground water, and analysis
157 of air samples for any volatile organic substance which exceeded thirty
158 times the volatilization criterion as specified in or calculated in
159 accordance with regulations adopted pursuant to section 22a-133k, as
160 amended by this act. The owner of the subject parcel shall notify the
161 commissioner if: (A) The concentration in any indoor air sample
162 exceeds thirty times the target indoor air concentration, appropriate for
163 the land-use of the parcel, as specified in regulations adopted pursuant
164 to section 22a-133k, as amended by this act; or (B) the indoor air
165 monitoring program is not conducted in accordance with this
166 subdivision. Notice shall be given to the commissioner in writing not
167 later than seven days after the time such person becomes aware that
168 such a condition exists.

169 (f) (1) If a technical environmental professional determines in the
170 course of investigating or remediating pollution after October 1, 1998,
171 which pollution is on or emanating from a parcel, that such pollution is
172 causing or has caused contamination of ground water which is
173 discharging to surface water and such ground water is contaminated
174 with a substance for which an acute aquatic life criterion is listed in
175 appendix D of the most recent water quality standards adopted by the
176 commissioner at a concentration which exceeds ten times (A) such
177 criterion for such substance in said appendix D, or (B) such criterion
178 for such substance times a site specific dilution factor calculated in

179 accordance with regulations adopted pursuant to section 22a-133k, as
180 amended by this act, such professional shall notify his client and the
181 owner of such parcel, if such owner can reasonably be identified, not
182 later than seven days after determining that the contamination exists.

183 (2) The owner of such parcel shall notify the commissioner in
184 writing not later than seven days after the time such person becomes
185 aware that the contamination exists except that notice shall not be
186 required if such person knows that the polluted discharge at that
187 concentration has been reported to the commissioner in writing within
188 the preceding year.

189 (g) (1) If a technical environmental professional determines in the
190 course of investigating or remediating pollution after October 1, 1998,
191 which pollution is on or emanating from a parcel, that such pollution is
192 causing or has caused contamination of ground water within five
193 hundred feet in an upgradient direction of a private or public drinking
194 water well which ground water is contaminated with a substance
195 resulting from a release for which the commissioner has established a
196 ground water protection criterion in regulations adopted pursuant to
197 section 22a-133k, as amended by this act, at a concentration at or above
198 the ground water protection criterion for such substance, such
199 technical environmental professional shall notify his client and the
200 owner of the subject parcel, if such owner can reasonably be identified,
201 not later than seven days after determining that the contamination
202 exists.

203 (2) The owner of the subject parcel shall notify the commissioner in
204 writing not later than seven days after the time such owner becomes
205 aware that the contamination exists.

206 (h) (1) If a technical environmental professional determines in the
207 course of investigating or remediating pollution after October 1, 1998,
208 which pollution is on or emanating from a parcel, that such pollution is
209 causing or has caused polluted vapors emanating from polluted soil,
210 groundwater or free product which vapors are migrating into
211 structures or utility conduits and which vapors pose an explosion

212 hazard, such technical environmental professional shall immediately
213 notify his client and the owner of the subject parcel, if such owner can
214 reasonably be identified, not later than twenty-four hours after
215 determining that the vapor condition exists. If the owner of such parcel
216 fails to notify the commissioner in accordance with this subsection,
217 such client shall notify the commissioner. If the owner notifies the
218 commissioner, the owner shall provide documentation to the client of
219 the professional which verifies that the owner has notified the
220 commissioner.

221 (2) The owner of such parcel shall orally notify the commissioner
222 and the local fire department immediately and under all circumstances
223 not later than two hours after the time a technical environmental
224 professional notifies the owner that the vapor condition exists, and
225 shall notify the commissioner in writing not later than five days after
226 such oral notice.

227 [(i) In the event the commissioner orders the testing of any private
228 drinking well, and such testing indicates that the water exceeds a
229 maximum contaminant level applicable to public water supply
230 systems for any contaminant listed in the Public Health Code or for
231 any contaminant listed on the state drinking water action level list
232 established pursuant to section 22a-471, the commissioner shall require
233 the respondent to such order to provide written notification of the
234 results of any testing conducted pursuant to such order not later than
235 twenty-four hours after said respondent receives such results to the
236 following: (1) The owner of record of the property upon which any
237 such private drinking well is located, (2) the local director of public
238 health, (3) any person that files a request with the local director of
239 public health to receive such notification, and (4) any other person the
240 commissioner specifically identifies in such order. Not later than
241 twenty-four hours after receiving such notification, such owner shall
242 forward a copy of such notification to at least one tenant of each unit of
243 any leased or rented dwelling unit located on such property and each
244 lessee of such property. Not later than three days after receiving such
245 notification, the local director of public health shall take all reasonable

246 steps to verify that such owner forwarded the notice required pursuant
247 to this subsection.

248 (j) All notices, oral or written, provided under this section shall
249 include the nature of the contamination or condition, the address of the
250 property where the contamination or condition is located, the location
251 of such contamination or condition, any property known to be affected
252 by such contamination or condition, any steps being taken to abate,
253 remediate or monitor such contamination or condition, and the name
254 and address of the person making such notification. Written
255 notification shall be clearly marked as notification required by this
256 section and shall be either personally delivered to the Water
257 Management Bureau of the Department of Environmental Protection
258 or sent by certified mail, return receipt requested, to the Water
259 Management Bureau of the Department of Environmental Protection.

260 (k) The commissioner shall provide written acknowledgment of
261 receipt of a written notice pursuant to this section not later than ten
262 days after receipt of such notice. Such acknowledgment shall be
263 accompanied by (1) a statement that the owner of the parcel has up to
264 ninety days within which to submit to the commissioner a plan to
265 remediate or abate the contamination or condition. If such plan is not
266 submitted or is not approved by the commissioner, the commissioner
267 shall prescribe the action to be taken, or (2) a directive as to action
268 required to remediate or abate the contamination or condition. If a
269 plan is submitted which details actions to be taken, or a report is
270 submitted which details actions taken, to mitigate the contamination or
271 conditions such that notice under this section would not be required,
272 and such plan or report is acceptable to the commissioner, the
273 commissioner shall approve such plan or report in writing. When
274 actions implementing an approved plan are completed, the
275 commissioner shall issue a certificate of compliance.

276 (l) An owner who has submitted written notice pursuant to this
277 section shall, not later than five days after the commencement of an
278 activity by any person that increases the likelihood of human exposure

279 to known contaminants, including, but not limited to, construction,
280 demolition, significant soil disruption or the installation of utilities,
281 post such notice in a conspicuous place on such property and, in the
282 case of a place of business, in a conspicuous place inside the place of
283 business. An owner who violates this subsection shall pay a civil
284 penalty of one hundred dollars for each offense. Each violation shall be
285 a separate and distinct offense and, in the case of a continuing
286 violation, each day's continuance thereof shall be deemed to be a
287 separate and distinct offense. The Attorney General, upon complaint of
288 the commissioner, shall institute an action in the superior court for the
289 judicial district of Hartford to recover such penalty.

290 (m) Not later than ten days after receipt of any written notice
291 received under this section, the commissioner shall: (1) Forward a copy
292 of such notice to the chief elected official of the municipality in which
293 the subject pollution was discovered by the technical environmental
294 professional, (2) forward a copy of such notice to the state senator and
295 state representative representing the area in which the subject
296 pollution was discovered by the technical environmental professional,
297 (3) forward a copy of such notice to the Labor Commissioner where the
298 Division of Occupational Safety and Health, within the Labor
299 Department, has jurisdiction over the employers, employees and
300 places of employment on the subject property, (4) forward a copy of
301 such notice to the employee representatives who request such reports,
302 (5) forward a copy of such notice to the federal Occupational Safety
303 and Health Administration, and (6) maintain a list on the department's
304 Internet web site of all the notices received under this section.]

305 [(n)] (i) Nothing in this section and no action taken by any person
306 pursuant to this section shall affect the commissioner's authority under
307 any other statute or regulation.

308 [(o)] (j) Nothing in this section shall excuse a person from complying
309 with the requirements of any statute or regulation except the
310 commissioner may waive the requirements of the regulations adopted
311 under section 22a-133k, as amended by this act, if [he] the

312 commissioner determines that it is necessary to ensure that timely and
313 appropriate action is taken to mitigate or minimize any of the
314 conditions described in subsections (b) to (h), inclusive, of this section.

315 Sec. 2. (NEW) (*Effective October 1, 2009*) In the event the
316 commissioner orders the testing of any private drinking well, and such
317 testing indicates that the water exceeds a maximum contaminant level
318 applicable to public water supply systems for any contaminant listed
319 in the Public Health Code or for any contaminant listed on the state
320 drinking water action level list established pursuant to section 22a-471
321 of the general statutes, the commissioner shall require the respondent
322 to such order to provide written notification of the results of any
323 testing conducted pursuant to such order not later than twenty-four
324 hours after such respondent receives such results to the following: (1)
325 The owner of record of the property upon which any such private
326 drinking well is located, (2) the local director of public health, (3) any
327 person that files a request with the local director of public health to
328 receive such notification, and (4) any other person the commissioner
329 specifically identifies in such order. Not later than twenty-four hours
330 after receiving such notification, such owner shall forward a copy of
331 such notification to at least one tenant of each unit of any leased or
332 rented dwelling unit located on such property and each lessee of such
333 property. Not later than three days after receiving such notification,
334 the local director of public health shall take all reasonable steps to
335 verify that such owner forwarded the notice required pursuant to this
336 section.

337 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) All notices, oral or
338 written, provided under section 22a-6u of the general statutes, as
339 amended by this act, or section 2 of this act, shall be on a form
340 prescribed by the commissioner and shall include (1) the nature of the
341 contamination or condition, (2) the address of the property where the
342 contamination or condition is located, (3) the location of such
343 contamination or condition, (4) any property known to be affected by
344 such contamination or condition, (5) any steps being taken to abate,
345 remediate or monitor such contamination or condition, and (6) the

346 name and address of the person making such notification. Written
347 notification shall be clearly marked as notification required by this
348 section and shall be either personally delivered to the Department of
349 Environmental Protection or sent by certified mail, return receipt
350 requested, to the Department of Environmental Protection.

351 (b) The commissioner shall provide written acknowledgment of
352 receipt of a written notice pursuant to section 22a-6u of the general
353 statutes, as amended by this act, not later than ten days after receipt of
354 such notice. Such acknowledgment shall be accompanied by (1) a
355 statement that the owner of the parcel has up to ninety days within
356 which to submit to the commissioner a plan for short-term emergency
357 measures to prevent human exposure to the significant hazard or to
358 abate the contamination or condition, or (2) a directive as to action
359 required to abate the contamination or condition or to prevent human
360 exposure. If a plan is submitted which details actions to be taken, or a
361 report is submitted which details actions taken to mitigate the
362 contamination or conditions such that notice under this section would
363 not be required, and such plan or report is acceptable to the
364 commissioner, the commissioner shall approve such plan or report, in
365 writing, as sufficient to address the need for emergency or other short
366 term action. If a plan is not submitted pursuant to this subsection or is
367 not approved by the commissioner, the commissioner shall prescribe
368 the action to be taken.

369 (c) Not later than ten days after receipt of any written notice
370 received under section 22a-6u of the general statutes, as amended by
371 this act, or section 2 of this act, the commissioner shall: (1) Forward a
372 copy of such notice to the chief elected official of the municipality in
373 which the subject pollution was discovered by the technical
374 environmental professional, (2) forward a copy of such notice to the
375 state senator and state representative representing the area in which
376 the subject pollution was discovered by the technical environmental
377 professional, (3) forward a copy of such notice to the Labor
378 Commissioner where the Division of Occupational Safety and Health,
379 within the Labor Department, has jurisdiction over the employers,

380 employees and places of employment on the subject property, (4)
381 forward a copy of such notice to the employee representatives who
382 request such reports, (5) forward a copy of such notice to the federal
383 Occupational Safety and Health Administration, and (6) maintain a list
384 on the department's Internet web site of all the notices received under
385 this section.

386 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) An owner who has
387 submitted written notice pursuant to section 22a-6u of the general
388 statutes, as amended by this act, shall, not later than five days after the
389 commencement of an activity by any person that increases the
390 likelihood of human exposure to known contaminants, including, but
391 not limited to, construction, demolition, significant soil disruption or
392 the installation of utilities, post such notice in a conspicuous place on
393 such property and, in the case of a place of business, in a conspicuous
394 place inside the place of business.

395 (b) An owner who violates any provision of this section shall pay a
396 civil penalty of one hundred dollars for each offense. Each violation
397 shall be a separate and distinct offense and, in the case of a continuing
398 violation, each day's continuance thereof shall be deemed to be a
399 separate and distinct offense. The Attorney General, upon complaint of
400 the commissioner, shall institute an action in the superior court for the
401 judicial district of Hartford to recover such penalty.

402 Sec. 5. (NEW) (*Effective October 1, 2009*) (a) For purposes of this
403 section:

404 (1) "Verification" means the rendering of a written opinion by a
405 licensed environmental professional that an investigation of the release
406 has been performed in accordance with prevailing standards and
407 guidelines and that the release has been remediated in accordance with
408 the regulations adopted pursuant to section 22a-133k of the general
409 statutes, as amended by this act; and

410 (2) "Interim verification" means a written opinion by a licensed
411 environmental professional that (A) states the investigation has been

412 performed in accordance with prevailing standards and guidelines,
413 and (B) identifies the long-term remedy being implemented to achieve
414 groundwater standards, the estimated duration of such remedy and
415 the ongoing operation and maintenance requirements for continued
416 operation of such remedy.

417 (b) On and after October 1, 2009, any owner of a parcel required to
418 notify the commissioner pursuant to section 22a-6u of the general
419 statutes, as amended by this act, shall (1) take short-term emergency
420 measures to prevent human exposure to the significant hazard, and (2)
421 remediate the release for which such notification is required in
422 accordance with this section.

423 (c) Each such owner shall (1) hire a licensed environmental
424 professional to oversee actions required under this subsection, (2) not
425 later than two years from the date notification is required under
426 section 22a-6u of the general statutes, as amended by this act, (A)
427 complete the investigation of the release, or (B) if the investigation
428 demonstrates that the source of the release is from an upgradient
429 property not owned by such owner, (i) complete the investigation on
430 such owner's property, and (ii) submit a complete investigation report,
431 signed by the licensed environmental professional as having been
432 conducted in accordance with prevailing standards and guidelines, to
433 the commissioner, (3) not later than three years after the date such
434 notification is required, (A) prepare a remedial action plan signed by a
435 licensed environmental professional that evaluates potential remedies
436 for the release and selects a remedy, and (B) submit such plan to the
437 commissioner, and (4) not later than six years after such notification is
438 required, complete remediation of the release to comply with
439 regulations adopted pursuant to section 22a-133k of the general
440 statutes, as amended by this act, sufficient to support a verification or
441 interim verification, and submit such verification or an interim
442 verification to the commissioner.

443 (d) Any such owner who submits an interim verification shall, until
444 in compliance with the regulations adopted pursuant to section 22a-

445 133k of the general statutes, as amended by this act, concerning
446 groundwater standards: (1) Operate and maintain the long-term
447 remedy for groundwater in accordance with the remedial action plan
448 approved by the commissioner, the interim verification and any other
449 approvals by the commissioner; (2) prevent exposure to the
450 groundwater plume; and (3) submit annual status reports to the
451 commissioner.

452 (e) Any reports, plans or other documentation submitted to the
453 commissioner in accordance with this section shall be on a form
454 prescribed by the commissioner.

455 (f) (1) The commissioner may conduct an audit of any verification
456 submitted pursuant to this section, but shall not conduct an audit of a
457 final verification of an entire release submitted after three years have
458 passed since the date of the commissioner's receipt of such final
459 verification unless an exception listed in subdivision (3) of this
460 subsection applies. Upon completion of an audit, the commissioner
461 shall send written audit findings to the certifying party and the
462 licensed environmental professional who signed the verification. The
463 three-year time frame for an audit of a final verification of an entire
464 release shall apply to any such final verifications received by the
465 commissioner after October 1, 2009.

466 (2) The commissioner may request additional information during an
467 audit. If such information has not been provided to the commissioner
468 not later than ninety days after the commissioner's request for such
469 information or any longer time as the commissioner may determine, in
470 writing, the commissioner may either (A) suspend the audit, which for
471 a final verification shall suspend the running of the three-year audit
472 time frame until such time as the commissioner receives all the
473 information requested, or (B) complete the audit based upon the
474 information provided in the verification before the request for
475 additional information.

476 (3) The commissioner shall not conduct an audit of a final
477 verification of a release after three years from receipt of such

478 verification pursuant to this subdivision unless (A) the commissioner
479 has reason to believe that a verification was obtained through the
480 submittal of materially inaccurate or erroneous information, or
481 otherwise misleading information material to the verification or that
482 misrepresentations were made in connection with the submittal of the
483 verification, (B) any postverification monitoring or operations and
484 maintenance, is required as part of a verification and which has not
485 been done, (C) the commissioner determines that there has been a
486 violation of section 22a-6u of the general statutes, as amended by this
487 act, or (D) the commissioner determines that information exists
488 indicating that the remediation may have failed to prevent a
489 substantial threat to public health or the environment.

490 (g) The provisions of this section shall not apply to a significant
491 hazard that is caused by a release of heating fuel from an underground
492 tank located on a one to four-family residential property.

493 (h) The commissioner may adopt regulations, in accordance with
494 the provisions of chapter 54 of the general statutes, to carry out the
495 purposes of this section, including, but not limited to, establishing
496 reasonable fees.

497 Sec. 6. (NEW) (*Effective October 1, 2009*) (a) For the purposes of this
498 section:

499 (1) "Verification" means the rendering of a written opinion by a
500 licensed environmental professional that an investigation of the release
501 has been performed in accordance with prevailing standards and
502 guidelines and that the release has been remediated in accordance with
503 the regulations adopted pursuant to section 22a-133k of the general
504 statutes, as amended by this act;

505 (2) "Interim verification" means a written opinion by a licensed
506 environmental professional that (A) states the investigation has been
507 performed in accordance with prevailing standards and guidelines, (B)
508 states the remediation has been completed in accordance with the
509 regulations adopted pursuant to section 22a-133k of the general

510 statutes, as amended by this act, and (C) identifies the long-term
511 remedy being implemented to comply with any regulation concerning
512 groundwater standards, the estimated duration of such remedy and
513 the ongoing operation and maintenance requirements for continued
514 operation of such remedy; and

515 (3) "Release" means any discharge, spillage, uncontrolled loss,
516 seepage or filtration of oil, petroleum or chemical liquids, solid, liquid
517 or gaseous products or hazardous wastes.

518 (b) Any person, firm, corporation or entity that causes any release
519 shall act immediately to contain and remove or mitigate the effects of
520 such release, including, but not limited to, land and water pollution, to
521 the satisfaction of the commissioner.

522 (c) In addition to the requirements of subsection (b) of this section,
523 any person, firm, corporation or entity required to report after October
524 1, 2009, under section 22a-450 of the general statutes, shall remediate
525 any reportable release to land or waters of the state of a material that
526 contains any hazardous substance or hazardous waste, as such terms
527 are defined in section 22a-134 of the general statutes, as amended by
528 this act, as follows: (1) Hire a licensed environmental professional to
529 oversee actions required under this subsection, (2) not later than two
530 years from the date notification is required under section 22a-450 of
531 the general statutes, complete the investigation of the nature and
532 extent of the release and submit a complete investigation report to the
533 Commissioner of Environmental Protection, signed by a licensed
534 environmental professional certifying the investigation was conducted
535 in accordance with prevailing standards and guidelines, (3) not later
536 than three years from the date notification is required under section
537 22a-450 of the general statutes, prepare and submit to the
538 commissioner a remedial action plan signed by a licensed
539 environmental professional that evaluates potential remedies for the
540 release and selects a preferred remedy, and (4) not later than six years
541 from the date notification is required under section 22a-450 of the
542 general statutes, complete the remediation to comply with the

543 regulations adopted pursuant to section 22a-133k of the general
544 statutes, as amended by this act, sufficient to support a verification or
545 interim verification, and submit either a verification or an interim
546 verification to the commissioner.

547 (d) Any person who submits an interim verification shall operate
548 and maintain the long-term remedy for groundwater in accordance
549 with the remedial action plan, the interim verification and any
550 approvals by the commissioner, prevent exposure to the groundwater
551 plume and submit annual status reports to the commissioner until
552 compliance with the regulations adopted pursuant to section 22a-133k
553 of the general statutes, as amended by this act, for groundwater is
554 achieved.

555 (e) Any person, firm, corporation or entity required to remediate a
556 release pursuant to this section shall pay a fee to the commissioner as
557 follows: (1) For a verification (A) there shall be no fee if a verification
558 for a release is received by the commissioner on or before two years
559 from the date the release was required to be reported, (B) if not
560 received by the commissioner prior to two years from the date the
561 release was required to be reported, one thousand dollars each year,
562 commencing with the second year, and each year thereafter until the
563 year a verification is received by the commissioner; and (2) for an
564 interim verification (A) there shall be no fee if an interim verification
565 for a release is received by the commissioner on or before two years
566 from the date the release was required to be reported, (B) if not
567 received by the commissioner prior to two years from the date the
568 release was required to be reported, five hundred dollars each year,
569 commencing with the second year, and each year thereafter until the
570 year a verification is received by the commissioner. All fees specified
571 in this subsection shall be due each year on the anniversary date of the
572 date the release was required to be reported, with the first such fee due
573 by the end of the second year after the reporting date.

574 (f) Nothing in this section shall be construed to affect the
575 commissioner's authority or the liability of any person, firm,

576 corporation or entity under any other provision of the general statutes,
577 including, but not limited to, the commissioner's authority to direct
578 immediate actions to contain, remove and mitigate the effects of any
579 release under section 22a-451 of the general statutes, to abate or
580 prevent pollution or to enforce any statute, requirement, order or
581 permit issued or administered by the commissioner.

582 (g) Subsections (c) to (e), inclusive, of this section shall not apply to:
583 (1) A release of heating fuel from a leaking underground storage tank
584 located on a one to four-family residential property, (2) a release of less
585 than one hundred gallons from a vehicle fuel tank as a result of a
586 motor vehicle accident, but such exemption does not include fuel
587 transported as cargo, or (3) a release of diesel or heating fuel from any
588 source totaling ten gallons or less.

589 (h) Any report, plan, verification or interim verification submitted to
590 the commissioner in accordance with this section shall be on a form
591 prescribed by the commissioner. The commissioner may audit any
592 submittal received under this section, including any verification,
593 provided the audit of any verification shall be subject to the time
594 frames for an audit set forth in subsection (g) of section 22a-134a of the
595 general statutes, as amended by this act. The provisions of subsection
596 (g) of section 22a-134a of the general statutes, as amended by this act,
597 shall apply to the provisions of this section in the same manner and
598 with the same force and effect as if the language of said subsection (g)
599 had been incorporated in full into this section and had expressly
600 referred to an audit in accordance with this section, except to the extent
601 that any provision is inconsistent with a provision in this section and
602 except that the term "establishment" shall be read as "release".

603 Sec. 7. Section 22a-133k of the general statutes is repealed and the
604 following is substituted in lieu thereof (*Effective October 1, 2009*):

605 (a) The Commissioner of Environmental Protection shall adopt
606 regulations, in accordance with the provisions of chapter 54, setting
607 forth standards for the remediation of environmental pollution at
608 hazardous waste disposal sites and other properties which have been

609 subject to a spill, as defined in section 22a-452c, which regulations shall
610 fully protect health, public welfare and the environment. In
611 establishing such standards the commissioner shall (1) give preference
612 to clean-up methods that are permanent, if feasible, (2) consider any
613 factor he deems appropriate, including, but not limited to,
614 groundwater classification of the site, and (3) provide for standards of
615 remediation less stringent than those required for residential land use
616 for polluted properties which (A) are located in areas classified as GB
617 or GC under the standards adopted by the commissioner for
618 classification of groundwater contamination, (B) were historically
619 industrial or commercial property, and (C) are not subject to an order
620 issued by the commissioner regarding such spill, consent order or
621 stipulated judgment regarding such spill, provided an environmental
622 use restriction is executed for any such property subsequent to the
623 remedial action in accordance with the provisions of section 22a-133aa
624 and further provided such regulations specify the types of industrial or
625 commercial land uses to which any such property may be put
626 subsequent to such remedial action. Such regulations shall cite
627 appropriate guidance documents which may be used by a licensed
628 environmental professional in a voluntary site remediation under
629 section 22a-133y. The commissioner may amend such regulations to set
630 forth reasonable fees for applications that require the commissioner's
631 review and approval.

632 (b) The commissioner may establish, by regulations adopted in
633 accordance with the provisions of chapter 54, a program for expediting
634 the review and approval of reports on final remedial actions
635 concerning sites subject to section 22a-134, as amended by this act, or
636 sites which, as of July 3, 1989, were on the inventory of hazardous
637 waste disposal sites maintained pursuant to section 22a-133c provided
638 such reports are not submitted pursuant to an order, consent order or
639 stipulated judgment. The commissioner may retain consultants as
640 necessary to accomplish such expedited review and may require the
641 payment of a fee, as provided for in said regulations to cover the
642 reasonable cost of performing the expedited review and approval of
643 final remediation reports pursuant to this subsection, including the

644 cost of any consultant retained by the commissioner to perform such
645 work.

646 Sec. 8. Section 22a-133q of the general statutes is repealed and the
647 following is substituted in lieu thereof (*Effective October 1, 2009*):

648 The commissioner shall adopt regulations, in accordance with the
649 provisions of chapter 54, to carry out the purposes of sections 22a-133n
650 to 22a-133r, inclusive. Such regulations may include, but not be limited
651 to, provisions regarding the form, contents, filing procedure for, and
652 release from, environmental use restrictions and reasonable fees for
653 processing applications and filings that require the commissioner's
654 review and approval or monitoring.

655 Sec. 9. Section 22a-133x of the general statutes is repealed and the
656 following is substituted in lieu thereof (*Effective October 1, 2009*):

657 (a) For the purposes of this section, "applicant" means the person
658 who submits the environmental condition assessment form to the
659 commissioner in accordance with this section. Except as provided in
660 section 22a-133y, [a political subdivision of the state, an owner of an
661 establishment, as defined in section 22a-134, an owner of property
662 identified on the inventory of hazardous waste disposal sites
663 maintained pursuant to section 22a-133c on October 1, 1995, or an
664 owner of contaminated property located in an area for which the
665 groundwater classification is GA or GAA,] any person may, at any
666 time, submit to the commissioner an environmental condition
667 assessment form for [such] real property [owned by such political
668 subdivision or such owner] and an initial review fee in accordance
669 with subsection (e) of this section. [The owner or political subdivision]
670 Such applicant shall use a licensed environmental professional to
671 verify the investigation and remediation, unless not later than thirty
672 days after the commissioner's receipt of such form, the commissioner
673 notifies [the owner or political subdivision] such applicant, in writing,
674 that review and written approval of any remedial action at such
675 [establishment or] property by the commissioner will be required. The
676 commissioner shall not process any such form submitted pursuant to

677 this section unless such form is accompanied by the required initial
678 review fee.

679 (b) [The owner or political subdivision] The applicant shall, on or
680 before ninety days after the submission of an environmental condition
681 assessment form, submit a statement of proposed actions for
682 investigating and remediating the parcel or a release area, as defined in
683 the regulations adopted by the commissioner pursuant to section 22a-
684 133k, as amended by this act, and a schedule for implementing such
685 actions. The commissioner may require [the owner or political
686 subdivision] the applicant to submit to the commissioner copies of
687 technical plans and reports related to investigation and remediation of
688 the parcel or release area. Notwithstanding any other provision of this
689 section, the commissioner may determine that the commissioner's
690 review and written approval of such technical plans and reports is
691 necessary at any time, and in such case the commissioner shall notify
692 the [owner or political subdivision] applicant of the need for the
693 commissioner's review and written approval. The commissioner shall
694 require that the certifying party submit to the commissioner all
695 technical plans and reports related to the investigation and
696 remediation of the parcel or release area if the commissioner receives a
697 written request from any person for such information. The [owner or
698 political subdivision] applicant shall advise the commissioner of any
699 modifications to the proposed schedule. Upon receipt of a verification
700 by a licensed environmental professional that the parcel or release area
701 has been investigated in accordance with prevailing standards and
702 guidelines and remediated in accordance with the remediation
703 standards, [the owner or political subdivision] the applicant shall
704 submit such verification to the commissioner on a form prescribed by
705 the commissioner.

706 (c) If the commissioner notifies [the owner or political subdivision]
707 the applicant that the commissioner will formally review and approve
708 in writing the investigation and remediation of the parcel, [the owner
709 or political subdivision] the applicant shall, on or before thirty days of
710 the receipt of such notice, or such later date as may be approved in

711 writing by the commissioner, submit for the commissioner's review
712 and written approval, a proposed schedule for: (1) Investigating and
713 remediating the parcel or release area; and (2) submitting to the
714 commissioner technical plans, technical reports and progress reports
715 related to such investigation and remediation. Upon the
716 commissioner's approval of such schedule, the [owner or political
717 subdivision] applicant shall, in accordance with the approved
718 schedule, submit technical plans, technical reports and progress
719 reports to the commissioner for the commissioner's review and written
720 approval. The [owner or political subdivision] applicant shall perform
721 all actions identified in the approved technical plans, technical reports
722 and progress reports in accordance with the approved schedule. The
723 commissioner may approve, in writing, any modification proposed in
724 writing by the [owner or political subdivision] applicant to such
725 schedule or investigation and remediation and may notify the [owner]
726 applicant, in writing, if the commissioner determines that it is
727 appropriate to discontinue formal review and approval of the
728 investigation or remediation.

729 (d) If, in accordance with the provisions of this section, the
730 commissioner has approved in writing or, as applicable, a licensed
731 environmental professional has verified, that the parcel or release area
732 has been remediated in accordance with the remediation standards,
733 such approval or verification may be used as the basis for submitting a
734 Form II pursuant to sections 22a-134 to 22a-134e, inclusive, as
735 amended by this act, provided there has been no additional discharge,
736 spillage, uncontrolled loss, seepage or filtration of hazardous waste at
737 or on the parcel subsequent to the date of the commissioner's approval
738 or verification by a licensed environmental professional.

739 (e) The fee for submitting an environmental condition assessment
740 form to the commissioner pursuant to this section shall be three
741 thousand dollars and shall be paid at the time the environmental
742 condition assessment form is submitted. Any fee paid pursuant to this
743 section shall be deducted from any fee required by subsection (m) or
744 (n) of section 22a-134e for the transfer of any parcel for which an

745 environmental condition assessment form has been submitted within
746 three years of such transfer.

747 (f) Nothing in this section shall be construed to affect or impair the
748 voluntary site remediation process provided for in section 22a-133y.

749 (g) Prior to commencement of remedial action taken under this
750 section, the [owner or political subdivision] applicant shall (1) publish
751 notice of the remediation, in accordance with the schedule submitted
752 pursuant to this section, in a newspaper having a substantial
753 circulation in the area affected by the establishment, (2) notify the
754 director of health of the municipality where the parcel is located of the
755 remediation, and (3) either (A) erect and maintain for at least thirty
756 days in a legible condition a sign not less than six feet by four feet on
757 the parcel, which sign shall be clearly visible from the public highway,
758 and shall include the words "ENVIRONMENTAL CLEAN-UP IN
759 PROGRESS AT THIS SITE. FOR FURTHER INFORMATION
760 CONTACT:" and include a telephone number for an office from which
761 any interested person may obtain additional information about the
762 remediation, or (B) mail notice of the remediation to each owner of
763 record of property which abuts the parcel, at the last-known address of
764 such owner on the last-completed grand list of the municipality where
765 the parcel is located.

766 Sec. 10. Section 22a-134 of the general statutes is repealed and the
767 following is substituted in lieu thereof (*Effective October 1, 2009*):

768 For the purposes of this section and sections 22a-134a to 22a-134d,
769 inclusive, as amended by this act:

770 (1) "Transfer of establishment" means any transaction or proceeding
771 through which an establishment undergoes a change in ownership, but
772 does not mean:

773 (A) Conveyance or extinguishment of an easement;

774 (B) Conveyance of an establishment through a foreclosure, as
775 defined in subsection (b) of section 22a-452f or foreclosure of a

776 municipal tax lien or through a tax warrant sale pursuant to section 12-
777 157 or, provided the establishment is within the pilot program
778 established in subsection (c) of section 32-9cc, a subsequent transfer by
779 such municipality that has foreclosed municipal tax liens or that has
780 acquired title to the property through section 12-157;

781 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
782 defined in and that qualifies for the secured lender exemption
783 pursuant to subsection (b) of section 22a-452f;

784 (D) Conveyance of a security interest, as defined in subdivision (7)
785 of subsection (b) of section 22a-452f;

786 (E) Termination of a lease and conveyance, assignment or execution
787 of a lease for a period less than ninety-nine years including
788 conveyance, assignment or execution of a lease with options or similar
789 terms that will extend the period of the leasehold to ninety-nine years,
790 or from the commencement of the leasehold, ninety-nine years,
791 including conveyance, assignment or execution of a lease with options
792 or similar terms that will extend the period of the leasehold to ninety-
793 nine years, or from the commencement of the leasehold;

794 (F) Any change in ownership approved by the Probate Court;

795 (G) Devolution of title to a surviving joint tenant, or to a trustee,
796 executor or administrator under the terms of a testamentary trust or
797 will, or by intestate succession;

798 (H) Corporate reorganization not substantially affecting the
799 ownership of the establishment;

800 (I) The issuance of stock or other securities of an entity which owns
801 or operates an establishment;

802 (J) The transfer of stock, securities or other ownership interests
803 representing less than forty per cent of the ownership of the entity that
804 owns or operates the establishment;

805 (K) Any conveyance of an interest in an establishment where the
806 transferor is the sibling, spouse, child, parent, grandparent, child of a
807 sibling or sibling of a parent of the transferee;

808 (L) Conveyance of an interest in an establishment to a trustee of an
809 inter vivos trust created by the transferor solely for the benefit of one
810 or more siblings, spouses, children, parents, grandchildren, children of
811 a sibling or siblings of a parent of the transferor;

812 (M) Any conveyance of a portion of a parcel upon which portion no
813 establishment is or has been located and upon which there has not
814 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
815 of hazardous waste, provided either the area of such portion is not
816 greater than fifty per cent of the area of such parcel or written notice of
817 such proposed conveyance and an environmental condition
818 assessment form for such parcel is provided to the commissioner sixty
819 days prior to such conveyance;

820 (N) Conveyance of a service station, as defined in subdivision (5) of
821 this section;

822 (O) Any conveyance of an establishment which, prior to July 1, 1997,
823 had been developed solely for residential use and such use has not
824 changed;

825 (P) Any conveyance of an establishment to any entity created or
826 operating under chapter 130 or 132, or to an urban rehabilitation
827 agency, as defined in section 8-292, or to a municipality under section
828 32-224, or to the Connecticut Development Authority or any
829 subsidiary of the authority;

830 (Q) Any conveyance of a parcel in connection with the acquisition of
831 properties to effectuate the development of the overall project, as
832 defined in section 32-651;

833 (R) The conversion of a general or limited partnership to a limited
834 liability company under section 34-199;

835 (S) The transfer of general partnership property held in the names of
836 all of its general partners to a general partnership which includes as
837 general partners immediately after the transfer all of the same persons
838 as were general partners immediately prior to the transfer;

839 (T) The transfer of general partnership property held in the names
840 of all of its general partners to a limited liability company which
841 includes as members immediately after the transfer all of the same
842 persons as were general partners immediately prior to the transfer;

843 (U) Acquisition of an establishment by any governmental or quasi-
844 governmental condemning authority;

845 (V) Conveyance of any real property or business operation that
846 would qualify as an establishment solely as a result of (i) the
847 generation of more than one hundred kilograms of universal waste in
848 a calendar month, (ii) the storage, handling or transportation of
849 universal waste generated at a different location, or (iii) activities
850 undertaken at a universal waste transfer facility, provided any such
851 real property or business operation does not otherwise qualify as an
852 establishment; there has been no discharge, spillage, uncontrolled loss,
853 seepage or filtration of a universal waste or a constituent of universal
854 waste that is a hazardous substance at or from such real property or
855 business operation; and universal waste is not also recycled, treated,
856 except for treatment of a universal waste pursuant to 40 CFR
857 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
858 such real property or business operation; or

859 (W) Conveyance of a unit in a residential common interest
860 community in accordance with section 22a-134i;

861 (2) "Commissioner" means the Commissioner of Environmental
862 Protection or the designated agent of the commissioner;

863 (3) "Establishment" means any real property at which or any
864 business operation from which (A) on or after November 19, 1980,
865 there was generated, except as the result of remediation of polluted

866 soil, groundwater or sediment, more than one hundred kilograms of
867 hazardous waste in any one month, (B) hazardous waste generated at a
868 different location was recycled, reclaimed, reused, stored, handled,
869 treated, transported or disposed of, (C) the process of dry cleaning was
870 conducted on or after May 1, 1967, (D) furniture stripping was
871 conducted on or after May 1, 1967, or (E) a vehicle body repair facility
872 was located on or after May 1, 1967;

873 (4) "Hazardous waste" means any waste which is (A) hazardous
874 waste identified in accordance with Section 3001 of the federal
875 Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq.,
876 (B) hazardous waste identified by regulations adopted by the
877 Commissioner of Environmental Protection, or (C) polychlorinated
878 biphenyls in concentrations greater than fifty parts per million except
879 that sewage, sewage sludge and lead paint abatement wastes shall not
880 be considered to be hazardous waste for the purposes of this section
881 and sections 22a-134a to 22a-134d, inclusive;

882 (5) "Service station" means a retail operation involving the resale of
883 motor vehicle fuel including, but not limited to, gasoline, diesel fuel
884 and kerosene and which operation does not otherwise meet the
885 definition of an establishment;

886 (6) "Certifying party" means, in the case of a Form III or Form IV, a
887 person associated with the transfer of an establishment who signs a
888 Form III or Form IV and who agrees to investigate the parcel in
889 accordance with prevailing standards and guidelines and to remediate
890 pollution caused by any release at the establishment in accordance
891 with the remediation standards and, in the case of a Form I or Form II,
892 a transferor of an establishment who signs the certification on a Form I
893 or II;

894 (7) "Party associated with the transfer of an establishment" means
895 (A) the present or past owner or operator of the establishment, (B) the
896 owner of the real property on which the establishment is located, (C)
897 the transferor, transferee, lender, guarantor or indemnitor, (D) the
898 business entity which operates or operated the establishment, or (E)

899 the state;

900 (8) "Remediation standards" means regulations adopted by the
901 commissioner pursuant to section 22a-133k, as amended by this act;

902 (9) "Parcel" means piece, parcel or tract of land which constitutes an
903 establishment, as defined in subdivision (3) of this section, or on which
904 is or was located any business operation which constitutes an
905 establishment;

906 (10) "Form I" means a written certification by the transferor of an
907 establishment on a form prescribed and provided by the commissioner
908 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration
909 of hazardous waste or a hazardous substance has occurred at the
910 establishment which certification is based on an investigation of the
911 parcel in accordance with prevailing standards and guidelines, or (B)
912 no discharge spillage, uncontrolled loss, seepage or filtration of
913 hazardous waste has occurred at the establishment based upon an
914 investigation of the parcel in accordance with the prevailing standards
915 and guidelines and the commissioner has determined, in writing, or a
916 licensed environmental professional has verified, in writing, that any
917 discharge, spillage, uncontrolled loss, seepage or filtration of a
918 hazardous substance has been remediated in accordance with the
919 remediation standards and that since any such written approval or
920 verification, including any approval or verification for a portion of an
921 establishment, no discharge, spillage, uncontrolled loss, seepage or
922 filtration of hazardous waste or hazardous substances has occurred at
923 any portion of the establishment;

924 (11) "Form II" means a written certification by the transferor of an
925 establishment on a form prescribed and provided by the commissioner
926 that the parcel has been investigated in accordance with prevailing
927 standards and guidelines and that (A) any pollution caused by a
928 discharge, spillage, uncontrolled loss, seepage or filtration of
929 hazardous waste or a hazardous substance which has occurred from
930 the establishment has been remediated in accordance with the
931 remediation standards and that the remediation has been approved in

932 writing by the commissioner or has been verified pursuant to section
933 22a-133x, as amended by this act, or section 22a-134a, as amended by
934 this act, in writing attached to such form by a licensed environmental
935 professional to have been performed in accordance with the
936 remediation standards and that since any such written approval or
937 verification, including any approval or verification for a portion of an
938 establishment, no discharge, spillage, uncontrolled loss, seepage or
939 filtration of hazardous waste or hazardous substances has occurred at
940 any portion of the establishment, (B) the commissioner has determined
941 in writing or a licensed environmental professional has verified
942 pursuant to section 22a-133x, as amended by this act, or section
943 22a-134a, as amended by this act, in writing, attached to the form that
944 no remediation is necessary to achieve compliance with the
945 remediation standards, or (C) a Form IV verification was previously
946 submitted to the commissioner and, since the date of the submission of
947 the Form IV, no discharge, spillage, uncontrolled loss, seepage or
948 filtration of hazardous waste or a hazardous substance has occurred at
949 the establishment, which certification is based on an investigation of
950 the parcel in accordance with prevailing standards and guidelines;

951 (12) "Form III" means a written certification signed by a certifying
952 party on a form prescribed and provided by the commissioner, which
953 certification states that (A) a discharge, spillage, uncontrolled loss,
954 seepage or filtration of hazardous waste or a hazardous substance has
955 occurred at the establishment or the environmental conditions at the
956 establishment are unknown, and (B) that the person signing the
957 certification agrees to investigate the parcel in accordance with
958 prevailing standards and guidelines and to remediate pollution caused
959 by any release of a hazardous waste or hazardous substance from the
960 establishment in accordance with the remediation standards;

961 (13) "Form IV" means a written certification signed by one or more
962 certifying parties on a form prescribed and provided by the
963 commissioner and which is accompanied by a written determination
964 by the commissioner or by a verification by a licensed environmental
965 professional pursuant to section 22a-134a, as amended by this act, or

966 22a-133x, as amended by this act, which certification states and is
967 accompanied by documentation demonstrating that the parcel has
968 been investigated in accordance with prevailing standards and
969 guidelines and that (A) there has been a discharge, spillage,
970 uncontrolled loss, seepage or filtration of hazardous waste or a
971 hazardous substance on the establishment, and (B) all actions to
972 remediate any pollution caused by any release at the establishment
973 have been taken in accordance with the remediation standards except
974 postremediation monitoring, natural attenuation monitoring or the
975 recording of an environmental land use restriction, and (C) the person
976 or persons signing the certification agree, in accordance with the
977 representations made in the form, to conduct postremediation
978 monitoring or natural attenuation monitoring in accordance with the
979 remediation standards and if further investigation and remediation are
980 necessary to take further action to investigate the establishment in
981 accordance with prevailing standards and guidelines and to remediate
982 the establishment in accordance with the remediation standards;

983 (14) "Person" means person, as defined in section 22a-2;

984 (15) "Remediate" means to contain, remove or abate pollution,
985 potential sources of pollution and substances in soil or sediment which
986 pose an unacceptable risk to human health or the environment and
987 includes, but is not limited to, the reduction of pollution by natural
988 attenuation;

989 (16) "Licensed environmental professional" means an environmental
990 professional licensed pursuant to section 22a-133v;

991 (17) "Environmental condition assessment form" means a form
992 prescribed and provided by the commissioner, prepared under the
993 supervision of a licensed environmental professional, and executed by
994 (A) the certifying party under sections 22a-134 to 22a-134e, inclusive,
995 as amended by this act, or (B) the [owner of the property] applicant
996 under section 22a-133x, as amended by this act, which form describes
997 the environmental conditions at the parcel;

998 (18) "Pollution" means pollution, as defined in section 22a-423;

999 (19) "Verification" means the rendering of a written opinion by a
1000 licensed environmental professional on a form prescribed by the
1001 commissioner that an investigation of the parcel has been performed in
1002 accordance with prevailing standards and guidelines and that the
1003 establishment has been remediated in accordance with the remediation
1004 standards;

1005 (20) "Interim verification" means a written opinion by a licensed
1006 environmental professional, on a form prescribed by the
1007 commissioner, that (A) states the investigation has been performed in
1008 accordance with prevailing standards and guidelines, (B) states the
1009 remediation has been completed in accordance with the remediation
1010 standards, except that, for remediation standards for groundwater, the
1011 selected remedy is in operation but has not achieved the remediation
1012 standards for groundwater, (C) identifies the long-term remedy being
1013 implemented to achieve groundwater standards, the estimated
1014 duration of such remedy and the ongoing operation and maintenance
1015 requirements for continued operation of such remedy, and (D) states
1016 there are no current exposure pathways to the groundwater area that
1017 has not yet met the remediation standards.

1018 [(20)] (21) "Vehicle" means any motorized device for conveying
1019 persons or objects except for an aircraft, boat, railroad car or engine, or
1020 farm tractor;

1021 [(21)] (22) "Business operation" means any business that has, or any
1022 series of substantially similar businesses that have, operated
1023 continuously or with only brief interruption on the same parcel, either
1024 with a single owner or successive owners;

1025 [(22)] (23) "Corporate reorganization not substantially affecting the
1026 ownership of an establishment" means implementation of a business
1027 plan to restructure a corporation through a merger, spin-off or other
1028 plan or reorganization under which the direct owner of the
1029 establishment does not change;

1030 [(23)] (24) "Form IV verification" means the rendering of a written
1031 opinion by a licensed environmental professional, after a Form IV has
1032 been filed, that postremediation monitoring, natural attenuation or the
1033 recording of an environmental land use restriction has been completed
1034 in accordance with the Form IV;

1035 [(24)] (25) "Hazardous substance" means hazardous substance, as
1036 defined in Section 101 of the Comprehensive Environmental Response,
1037 Compensation, and Liability Act of 1980, 42 USC 9601, or a petroleum
1038 product or by-product for which there are remediation standards
1039 adopted pursuant to section 22a-133k, as amended by this act, or for
1040 which such remediation standards have a process for calculating the
1041 numeric criteria of such substance;

1042 [(25)] (26) "Sediment" means unconsolidated material occurring in a
1043 stream, pond, wetland estuary or other water body;

1044 [(26)] (27) "Universal waste" means batteries, pesticides,
1045 thermostats, lamps and used electronics regulated as a universal waste
1046 under regulations adopted pursuant to subsection (c) of section 22a-
1047 449. "Universal waste" does not mean (A) batteries, pesticides,
1048 thermostats and lamps that are not covered under 40 CFR Part 273, or
1049 (B) used electronics that are not regulated as a universal waste under
1050 regulations adopted pursuant to subsection (c) of section 22a-449;

1051 [(27)] (28) "Universal waste transfer facility" means any facility
1052 related to transportation, including loading docks, parking areas,
1053 storage areas and other similar areas where shipments of universal
1054 waste are held during the normal course of transportation for ten days
1055 or less.

1056 Sec. 11. Subsection (g) of section 22a-134a of the general statutes is
1057 repealed and the following is substituted in lieu thereof (*Effective*
1058 *October 1, 2009*):

1059 (g) (1) (A) Except as provided in subsection (h) of this section, the
1060 certifying party to a Form III or Form IV shall, not later than seventy-

1061 five days after the receipt of the notice that such form is complete or
1062 such later date as may be approved in writing by the commissioner,
1063 submit a schedule for the investigation of the parcel and remediation
1064 of the establishment. Such schedule shall, unless a later date is
1065 specified in writing by the commissioner, provide that the
1066 investigation shall be completed within two years of the date of receipt
1067 of such notice, [and that] remediation shall be initiated not later than
1068 three years after the date of receipt of such notice and remediation
1069 shall be completed sufficient to support either a verification or interim
1070 verification not later than six years after the date of such notice. The
1071 schedule shall also include a schedule for providing public notice of
1072 the remediation prior to the initiation of such remediation in
1073 accordance with subsection (i) of this section. Not later than two years
1074 after the date of the receipt of the notice that the Form III [or Form IV]
1075 is complete, unless the commissioner has specified a later day, in
1076 writing, the certifying party shall submit to the commissioner
1077 documentation, approved in writing by a licensed environmental
1078 professional and in a form prescribed by the commissioner, that the
1079 investigation has been completed in accordance with prevailing
1080 standards and guidelines. Not later than three years after the date of
1081 the receipt of the notice that the Form III [or Form IV] is complete,
1082 unless the commissioner has specified a later day in writing, the
1083 certifying party shall notify the commissioner in a form prescribed by
1084 the commissioner that the remediation has been initiated, and shall
1085 submit to the commissioner a remedial action plan approved in
1086 writing by a licensed environmental professional in a form prescribed
1087 by the commissioner. Notwithstanding any other provision of this
1088 section, the commissioner may determine at any time that the
1089 commissioner's review and written approval is necessary and in such
1090 case shall notify the certifying party that the commissioner's review
1091 and written approval is necessary. Such certifying party shall
1092 investigate the parcel and remediate the establishment in accordance
1093 with the proposed schedule submitted in accordance with this
1094 subdivision or the schedule specified by the commissioner.

1095 (B) [When remediation of the entire establishment is complete,] Not

1096 later than six years after the date of receipt of the notice that the Form
1097 III or Form IV is complete, unless the commissioner has specified a
1098 later date in writing, the certifying party shall achieve the remediation
1099 standards of a verification or interim verification and shall submit to
1100 the commissioner a final or interim verification by a licensed
1101 environmental professional. Any such final verification may include
1102 and rely upon a verification for a portion of the establishment
1103 submitted pursuant to subdivision (2) of this subsection. Verifications
1104 shall be submitted on a form prescribed by the commissioner.

1105 (C) Any certifying party that submitted a Form III or Form IV prior
1106 to October 1, 2009 shall, not later than six years after October 1, 2009,
1107 unless the commissioner has approved in writing a later date, achieve
1108 the remediation standards for the establishment sufficient to support a
1109 final or interim verification and shall submit to the commissioner such
1110 final or interim verification. Any such final verification may include
1111 and rely upon a verification for a portion of the establishment
1112 submitted pursuant to subdivision (2) of this subsection.

1113 (D) A certifying party who submits an interim verification shall,
1114 until the remediation standards for groundwater are achieved, operate
1115 and maintain the long-term remedy for groundwater in accordance
1116 with the remedial action plan, the interim verification and any
1117 approvals by the commissioner, prevent exposure to the groundwater
1118 plume and submit annual status reports to the commissioner.

1119 (E) The certifying party to a Form IV shall submit, along with the
1120 Form IV, a schedule for the groundwater monitoring and recording of
1121 an environmental land use restriction, as applicable.

1122 (2) If a certifying party completes the remediation for a portion of an
1123 establishment, such party may submit a verification by a licensed
1124 environmental professional for any such portion of an establishment.
1125 The certifying party shall be deemed to have satisfied the requirements
1126 of this subsection for that portion of the establishment covered by any
1127 such verification. If any portion of an establishment for which a
1128 verification is submitted pursuant to this subdivision is transferred or

1129 conveyed or undergoes a change in ownership before remediation of
1130 the entire establishment is complete that would not otherwise be
1131 subject to the provisions of sections 22a-134 to 22a-134e, inclusive, as
1132 amended by this act, the certifying party shall provide notice to the
1133 commissioner of such transfer, conveyance or change in ownership not
1134 later than thirty days after any such transfer, conveyance or change in
1135 ownership.

1136 (3) (A) The commissioner may conduct an audit of any verification
1137 submitted pursuant to this section, but shall not conduct an audit of a
1138 final verification of an entire establishment submitted pursuant to
1139 subdivision (1) of this subsection after three years have passed since
1140 the date of the commissioner's receipt of such final verification unless
1141 an exception listed in subparagraph (C) of this subdivision applies.
1142 Upon completion of an audit, the commissioner shall send written
1143 audit findings to the certifying party and the licensed environmental
1144 professional who verified. The three-year time frame for an audit of a
1145 final verification of an entire establishment shall apply to such final
1146 verifications received by the commissioner after October 1, 2007.

1147 (B) The commissioner may request additional information during an
1148 audit. If such information has not been provided to the commissioner
1149 within ninety days of the commissioner's request for such information
1150 or any longer time as the commissioner may determine in writing, the
1151 commissioner may either (i) suspend the audit, which for a final
1152 verification shall suspend the running of the three-year audit time
1153 frame until such time as the commissioner receives all the information
1154 requested, or (ii) complete the audit based upon the information
1155 provided in the verification before the request for additional
1156 information.

1157 (C) The commissioner shall not conduct an audit of a final
1158 verification of an entire establishment after three years from receipt of
1159 such verification pursuant to this subdivision unless (i) the
1160 commissioner has reason to believe that a verification was obtained
1161 through the submittal of materially inaccurate or erroneous

1162 information, or otherwise misleading information material to the
1163 verification or that misrepresentations were made in connection with
1164 the submittal of the verification, (ii) a verification is submitted
1165 pursuant to an order of the commissioner pursuant to subsection (j) of
1166 this section, (iii) any post-verification monitoring, or operations and
1167 maintenance, is required as part of a verification and which has not
1168 been done, (iv) a verification that relies upon an environmental land
1169 use restriction was not recorded on the land records of the
1170 municipality in which such land is located in accordance with section
1171 22a-133o and applicable regulations, (v) the commissioner determines
1172 that there has been a violation of sections 22a-134 to 22a-134e,
1173 inclusive, as amended by this act, or (vi) the commissioner determines
1174 that information exists indicating that the remediation may have failed
1175 to prevent a substantial threat to public health or the environment.

1176 Sec. 12. Subsection (l) of section 22a-134a of the general statutes is
1177 repealed and the following is substituted in lieu thereof (*Effective*
1178 *October 1, 2009*):

1179 (l) Notwithstanding any other provisions of this section, no person
1180 shall be required to comply with the provisions of sections 22a-134 to
1181 22a-134e, inclusive, as amended by this act, when transferring real
1182 property (1) (A) for which a Form I or Form II has been filed for the
1183 transfer of the parcel on or after October 1, 1995, or (B) for which parcel
1184 a Form III or Form IV has been filed and which has been remediated
1185 and such remediation has been approved in writing by the
1186 commissioner or has been verified in writing in accordance with this
1187 section by a licensed environmental professional that an investigation
1188 has been performed in accordance with prevailing standards and
1189 guidelines and that the remediation has been performed in accordance
1190 with the remediation standards, and (2) either (A) at which no
1191 activities described in subdivision (3) of section 22a-134, as amended
1192 by this act, have been conducted since the date of such approval or
1193 verification or the date on which the Form I or Form II was filed, or (B)
1194 on or after October 1, 2009, such Form I, Form II, remediation and
1195 licensed environmental professional's verification, as applicable, have

1196 been completed, received and approved by the commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	22a-6u
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section
Sec. 4	<i>October 1, 2009</i>	New section
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	22a-133k
Sec. 8	<i>October 1, 2009</i>	22a-133q
Sec. 9	<i>October 1, 2009</i>	22a-133x
Sec. 10	<i>October 1, 2009</i>	22a-134
Sec. 11	<i>October 1, 2009</i>	22a-134a(g)
Sec. 12	<i>October 1, 2009</i>	22a-134a(l)

Statement of Legislative Commissioners:

The following revisions were made for clarity: In section 2, "said" was changed to "such" in the tenth line; in section 3, numbered subdivisions were added; in section 5(c), "not owned by such owner" was added in the seventh line and "to the commissioner" was added in the last line; in section 6(c), "the requirements of" was added in the first line and "to the commissioner" was added in the last line; section 6(d) was reorganized; in section 6(g), "at" was changed to "located on" and in section 10, "owner of the property" was changed to "applicant".

ENV ***Joint Favorable Subst.-LCO***

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Environmental Protection	EQ; GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: EQ=Environmental Quality Fund; GF = General Fund

Municipal Impact: None

Explanation

The bill could result in a revenue gain to the EQ fund since the bill establishes various fees for entities required to clean-up a release of certain hazardous substances, and a revenue gain to the General Fund since it establishes a civil penalty of \$100 for each offense of the bill's provisions.

In FY 08, the Department of Environmental Protection collected \$1.9 million for the General Fund from fines and penalties. As of 3/16/09 (FY 09), there has been about \$990,000 deposited into the General Fund¹ from fines and penalties.

The EQ Fund balance for FY 08 is \$34.3 million. The EQ fund is used to fund a variety of activities in support of environmental quality programs, especially those related to permit issuance, monitoring, and enforcement and is funded mainly through permit and license fees.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of fees imposed for clean-ups and subject to the number of civil penalties imposed.

¹ Revenue collected from fines and penalties range from fiscal year to fiscal year; some years this revenue may be as high as \$5.0 million while other years this revenue is less than \$1.0 million.

OLR Bill Analysis**SB 1106*****AN ACT CONCERNING THE PROCESS OF REMEDIATION OF RELEASES OF HAZARDOUS WASTE AND HAZARDOUS SUBSTANCES.*****SUMMARY:**

Current law generally requires people responsible for cleaning up certain contaminated property to (1) finish investigating the problem within two years and (2) prepare a remediation plan within three years, of certain dates the law establishes. The bill requires these people and others to complete the remediation within six years from these dates. This requirement generally applies starting October 1, 2009.

The bill expands eligibility for a voluntary remediation program, and applies the above timetable to (1) property owners who learn that a spill on their property has caused or is causing a significant hazard; (2) people the law requires to report hazardous spills; (3) a person, firm, corporation, or entity that causes a release; (4) those whose property is subject to the Transfer Act; and (5) those who voluntarily remediate their property.

It allows these parties to comply with the six-year remediation deadline while continuing to remediate and monitor groundwater contamination after that time. It requires them to hire licensed environmental professionals (LEPs) to oversee the remediation and to issue “verifications” and “interim verifications” certifying that the remediation has been performed according to prevailing standards and guidelines and to Department of Environmental Protection (DEP) remediation standards. The verifications and interim verification standards differ by remediation program.

It exempts from the remediation timetable cases in which the commissioner finds contamination after she orders the testing of a private drinking well. It is not clear if it also exempts property owners in these cases from the imposition of a civil penalty for failing to post notice warning of likely human exposure to contamination.

It allows the DEP commissioner to audit the verifications and interim verifications. It sets certain filing fees and authorizes the commissioner to set others by regulation.

EFFECTIVE DATE: October 1, 2009

**§§ 1-5 — OWNERS OF PROPERTY WHERE POLLUTION IS FOUND
("SIGNIFICANT HAZARD")**

The law requires a technical environmental professional (including an LEP) to notify his client and a property owner within a specified period after determining in the course of investigating or remediating water pollution that (1) pollution is on or emanating from property that is not subject to a DEP order to investigate or report environmental contamination and (2) the pollution is causing or has caused contamination of:

- (a) a public or private drinking water well,
- (b) ground water within 500 feet of a drinking water well,
- (c) soil within two feet of the surface,
- (d) ground water under a building,
- (e) ground water discharging to surface water, or
- (f) vapors in soil or water which pose an explosion threat.

The law requires the property owner to notify DEP of the contaminated property once he or she becomes aware of it. Under the bill all notices it requires must be on DEP-prescribed forms.

By law, the commissioner must acknowledge, in writing, that she

received notice from the property owner within 10 days of receiving it. The bill modifies the form this acknowledgement must take.

Under current law, the commissioner must tell the property owner he or she has 90 days to submit a plan to remediate or abate the pollution. If the commissioner does not approve this plan, or no plan is submitted, the commissioner must prescribe the action the property owner must take. The commissioner must issue a certificate of compliance after actions implementing an approved plan are completed.

The bill instead requires the commissioner to send, together with her acknowledgement of the notice, a statement (1) directing the owner to (a) submit within 90 days a plan for short-term emergency measures to prevent human exposure to the significant hazard or (b) abate the contamination or condition or (2) specifying the action the owner must take to abate the contamination or prevent human exposure. The bill does not define significant hazard. The commissioner must approve the property owner's short-term plan in writing if it details actions to take or to mitigate the contamination so that no notice of contamination to DEP would be required. If the commissioner does not approve the plan or does not receive one, she must prescribe what action the property owner must take.

Verification and Interim Verification for Significant Hazard Property Owners

Under the bill, "verification" means an LEP's written opinion that the release or spill has been investigated according to prevailing standards and guidelines and remediated according to DEP regulations.

"Interim verification" for these property owners is an LEP's written opinion that (1) states the investigation has been performed according to prevailing standards and guidelines and (2) (a) identifies the long-term remedy being used to achieve groundwater remediation standards, (b) states how long it will take to achieve these standards, and (c) states how the remedy will operate and be maintained.

Remediation Timetable

Starting October 1, 2009, a property owner required to notify the commissioner of a release must take short-term emergency measures to prevent human exposure to the significant hazard and remediate the release according to a specific timetable.

Investigation

The owner must (1) hire an LEP to oversee the required actions and (2) within two years of the time notice to the commissioner is required, complete the investigation of the release, or if the investigation finds the source is from an up-gradient property belonging to another, complete the investigation on that owner's property, and submit a complete investigation report to the commissioner. The LEP must sign the report and certify that the investigation was conducted according to prevailing standards and guidelines.

Remediation

Within three years from the time notice to the commissioner is required, the owner must (1) prepare a remedial action plan evaluating potential remedies; (2) select one; and (3) submit the plan, signed by the LEP, to the commissioner.

The owner must complete the remediation within six years from the time notification to the commissioner is required. The remediation must be sufficient to support a verification or an interim verification, which the property owner must submit to the commissioner within the six-year period.

An owner who submits an interim verification must (1) operate and maintain the long-term groundwater remedy according to the remedial action plan, the interim verification, and any other approvals by the commissioner; (2) prevent exposure to the groundwater plume; and (3) submit annual status reports to the commissioner. The reports must be in a form the commissioner prescribes.

Under the bill, the remediation timetable no longer applies in cases where the commissioner finds contamination after she has ordered the

testing of a private drinking well. It is not clear if civil penalties apply under the bill in these cases where the owner fails to post notice of activities increasing the likelihood of human exposure to contaminants.

Audits

The commissioner may audit a verification, but with certain exceptions (see below), cannot conduct an audit if more than three years have passed since she received a final verification of an entire release. Upon completing an audit, the commissioner must send written findings to the certifying party and to the LEP who signed the verification. This three-year deadline applies to final verifications the commissioner receives after October 1, 2009. The bill does not define final verification or a certifying party with respect to these provisions.

The commissioner may request more information during an audit. If she does not receive the additional information within 90 days of her request (or longer if she allows) the commissioner may (1) suspend the audit, stopping the clock from running on the three-year deadline until she receives the information or (2) complete the audit based on the initial verification.

The commissioner cannot audit a final verification if more than three years have elapsed from receipt of a verification unless (1) she believes that (a) a verification was obtained through the submittal of materially inaccurate, erroneous, or otherwise misleading information material to the verification or (b) misrepresentations were made in connection with the submittal of the verification; (2) any required post-verification monitoring or operations and maintenance has not been done; or (3) she determines that (a) there has been a violation of the law governing releases causing significant hazards or (b) the remediation may have failed to prevent a substantial threat to public health or the environment.

These provisions do not apply to a significant hazard caused by the release of heating oil from an underground oil tank located in a

dwelling that houses from one to four families. The bill allows the commissioner to adopt regulations, including those setting reasonable fees. The bill does not specify what the fees are for.

§ 6 — “450” REPORTERS AND PEOPLE WHO CAUSE A SPILL

By law, the following people must immediately report to DEP a spill of oil, chemicals, or hazardous waste that threatens human health or the environment:

1. the (a) master of a ship, barge or other vessel or (b) person in charge of a terminal, for the loading or unloading of oil, chemicals, or hazardous wastes;
2. the person in charge of an establishment (see TRANSFER ACT, below);
3. the operator of a vehicle, trailer, or other machine that accidentally or through negligence causes a spill.

The bill specifies that, starting October 1, 2009, these people must remediate reportable spills of hazardous substances and hazardous waste. It also requires any person, firm, corporation, or entity that causes a release to immediately contain and remove or mitigate the spill's impact on land or water, to the commissioner's satisfaction.

Under the bill, these people (“responsible parties”) must:

1. hire an LEP to oversee the clean-up;
2. within two years of reporting the spill, complete the investigation of the release and submit a complete investigation report to DEP, signed by the LEP and certifying that the investigation was performed according to prevailing standards and guidelines;
3. within three years of reporting the spill, prepare and submit to DEP a remedial action plan, signed by the LEP, that evaluates potential remedies and selects the preferred remedy;

4. within six years of reporting the release, complete the remediation in compliance with DEP remediation standards.

The remediation, when complete, must be sufficient to support either a verification or interim verification.

Under the bill, “verification” for “450” reporters and responsible parties has the same meaning as for those required to remediate significant hazards.

However, an “interim verification” for “450” reporters and responsible parties is an LEP’s written opinion that (1) the investigation has been performed according to prevailing standards and guidelines; (2) the remediation has been completed according to DEP standards; and (3) identifies the long-term remedy used to comply with groundwater regulations, the estimated duration of this remedy, and the operating and maintenance requirements for the remedy’s continued operation.

As for property owners reporting significant hazards, the responsible party who submits an interim verification must, until he or she achieves compliance with DEP groundwater remediation standards, operate and maintain the long-term remedy for groundwater according to the remedial action plan, the interim verification, and any approvals the commissioner issues. The responsible party must prevent the pollution from reaching the groundwater plume, and must submit annual status reports to the commissioner.

Fees

Under the bill, a responsible party required to remediate a release under this program (but apparently not those who remediate a significant hazard) must pay a fee, the amount of which depends on when a verification or interim verification is submitted. The fees are due annually on the anniversary of the date the release was required to be reported, with the first payment due by the end of the second year after this date.

Verification Fee

There is no fee if the commissioner receives a verification within two years from the date the release was required to be reported. If the commissioner does not receive a verification within this time, the responsible party must pay an annual fee of \$1,000, beginning at the end of the second year, until he or she submits a verification.

Interim Verification

There is no fee if the commissioner receives an interim verification within two years of the date the release was required to be reported. If the commissioner does not receive an interim verification within this time, the responsible party must pay an annual fee of \$500, beginning at the end of the second year, until he or she submits an interim verification.

It is not clear how the commissioner will know which fee to charge before she receives either a verification or interim verification.

The bill does not affect the (1) liability of any person, firm, corporation, or entity or (2) commissioner's authority, including her power to (a) direct immediate actions to contain, remove, and mitigate the effects of a release; (b) abate or prevent pollution; or (c) enforce any law, requirement, order, or permit she issues or administers.

The bill's provisions concerning the remediation schedule, submittal of verifications and interim verifications, and fees for responsible parties do not apply to (1) leaks from residential fuel tanks in homes of between one and four families; (2) an accidental release of less than 100 gallons from a vehicle fuel tank, as long as the fuel was not being transported as cargo; and (3) releases of 10 gallons or less of diesel or heating fuel from any source.

Any plan, report, verification, or interim verification submitted to the commissioner must be on a DEP-prescribed form. The commissioner may audit any submittal, according to the audit timeframe specified in the Transfer Act.

The bill specifies that certain Transfer Act deadlines and time limits apply to responsible parties unless the Transfer Act provisions are inconsistent with the bill, except that the term “establishment” in the Transfer Act must be read as “release.”

§§ 7-8 — REGULATIONS ON FEES AND ENVIRONMENTAL LAND USE RESTRICTIONS

Current law authorizes the commissioner to adopt regulations setting remediation standards for pollution at hazardous waste disposal sites and other sites subject to a spill. The bill authorizes her to amend the regulations to set reasonable fees for applications that require her review and approval.

The law authorizes the commissioner to adopt regulations regarding the form, contents, filing procedure for, and release from, environmental land use restrictions (see BACKGROUND). The bill authorizes her to amend the regulations to set reasonable fees for processing applications and filings that require her monitoring or review and approval.

§ 9 — EXPANDING ELIGIBILITY FOR VOLUNTARY REMEDIATION PROGRAM

The bill expands a voluntary remediation program by allowing anyone to submit an environmental condition assessment to the commissioner before hiring an LEP to verify an investigation and remediation of the site, unless the commissioner determines her review and written approval is needed.

Under current law (CGS § 22a-133x), only (1) a political subdivision of the state, (2) an owner of an establishment (see TRANSFER ACT, below), (3) an owner of property on the hazardous waste disposal site inventory, or (4) an owner of contaminated property located in an area where the groundwater is classified as GA or GAA may submit such an assessment before hiring an LEP to verify site investigation and remediation.

§ 10 — TRANSFER ACT CHANGES

The Transfer Act governs the sale or other conveyance of certain property where hazardous waste was generated, used, or stored. It requires such property to be investigated and pollution properly remediated. It also regulates “establishments,” which include certain businesses and property where (1) more than 100 kilograms (220 pounds) of hazardous waste was generated in a calendar month or (2) hazardous waste was recycled, reclaimed, reused, stored, handled, disposed of, transported, or treated.

The law requires anyone transferring an establishment to complete one or more of four different forms, depending on the presence of hazardous waste or hazardous substances, and the status of investigations and remediation.

Transfer Act Forms

In the case of a Form III or Form IV, a “certifying party” is a person associated with the transfer of an establishment who agrees to investigate a parcel according to prevailing standards and to properly remediate pollution.

A certifying party files a Form III when (1) a hazardous waste or hazardous substance leak has occurred or (2) he or she does not know the environmental conditions at the establishment. The certifying party agrees to properly investigate and remediate the parcel.

A certifying party files a Form IV when he or she has completed all remediation actions except for post-remediation monitoring or the recording of an environmental land use restriction. He or she agrees to conduct post-remediation monitoring.

Current law provides for verifications, similar to those the bill creates for others. By law, a verification under the transfer act is an LEP’s written opinion, on a DEP-prescribed form, that the parcel has been investigated according to prevailing standards and guidelines and that the establishment has been remediated according to DEP remediation standards.

The bill creates an “interim verification” in the Transfer Act. Interim verification for the purposes of the transfer act means an LEP’s written opinion on a DEP-prescribed form, that (1) states that the investigation has been performed according to prevailing standards and guidelines; (2) states that the remediation has been completed according to remediation standards, except that, for groundwater, the remedy is operating but has not yet achieved groundwater remediation standards; (3) identifies the long term remedy meant to achieve those standards, the amount of time it will take, and its operating and maintenance requirements; and (4) states that there are no current exposure pathways from the pollution to groundwater.

§ 11 — CHANGES TO FORM III AND FORM IV REQUIREMENTS

Under current law, the certifying party to a Form III or Form IV must, within 75 days of receiving notice that such form is complete, submit a schedule to investigate the parcel and remediate the establishment. Unless the commissioner specifies a later date in writing, the investigation must be completed within two years, and remediation begun within three years, of receipt of the notice.

The bill requires that remediation sufficient to warrant a verification or interim verification be completed no later than six years from the notification date.

Current law requires the certifying party to a Form III or Form IV to submit, within two years of the notification date, documentation to the commissioner, signed by an LEP, that the investigation has been completed according to prevailing standards and guidelines. Not later than three years from the notification date, the certifying party must notify the commissioner that remediation has begun and submit to her a remedial action plan, approved in writing by an LEP, on a DEP-prescribed form. The bill eliminates the need for a certifying party to a Form IV to perform these steps. This apparently has no legal effect because a certifying party files a Form IV only after completing all remediation actions except for post-remediation monitoring.

Current law requires a certifying party to submit a final verification to the commissioner, signed by an LEP, when he or she completes remediation of an entire establishment. The bill deletes the requirement that the certifying party completely remediate the entire establishment before submitting a final verification. It instead requires that, within six years of the date he or she receives notice that a Form III or Form IV is complete, unless the commissioner specifies a later date in writing, a certifying party to a Form III or Form IV must achieve remediation standards sufficient for a verification or interim verification. The certifying party must submit the final verification or interim verification, signed by an LEP, to the commissioner by that time. As under current law, verifications must be on a DEP-prescribed form, and a final verification may rely on a verification for a portion of the establishment.

It requires a certifying party who filed a Form III or Form IV before October 1, 2009 to achieve the remediation standards supporting a final or interim verification by October 1, 2015, and submit it to the commissioner by that date, unless the commissioner specifies a later date in writing. A final verification may include and rely on a verification of a portion of the establishment, as allowed by law. A final verification in this case apparently refers to verification of an entire establishment.

A certifying party who submits an interim verification must operate and maintain the long-term remedy for groundwater according to the remedial action plan, the interim verification, and any approvals by the commissioner until he or she achieves the groundwater remediation standards. He or she must prevent exposure to the groundwater plume and submit annual status reports to the commissioner.

The certifying party to a Form IV must submit, along with the form, a schedule for groundwater monitoring and recording of an environmental land use restriction, as applicable.

§ 12 — EXEMPTIONS FROM CERTAIN TRANSFER ACT REQUIREMENTS

Current law exempts certain people from complying with certain Transfer Act requirements concerning forms, schedules, notice requirements, damages, and fees when transferring real property. The bill adds an exemption, starting October 1, 2009, for anyone whose completed Form I, Form II, remediation and LEP's verification, as applicable, have been received and approved by the commissioner.

BACKGROUND***Environmental Land Use Restriction***

Environmental land use restrictions (ELUR) reduce the time and cost associated with environmental clean-ups by allowing contaminated property to be used for limited purposes while protecting human health and the environment. For example, a restriction might be imposed that limits the use of a contaminated site to a commercial or industrial purpose, but prohibits its use by the general public. In Connecticut, an ELUR is a binding agreement between a property owner and DEP that is recorded on municipal land records. Its requirements are binding on present and future property owners unless the commissioner approves a release from the ELUR (CGS § 22a-133n *et seq.*).

Technical Environmental Professional

A technical environmental professional is an individual, including an environmental professional licensed pursuant to Section 22a-133v, who collects soil, water, vapor, or air samples for purposes of investigating and remediating sources of pollution to soil or waters of the state and who may be directly employed by, or retained as a consultant by, a public or private employer (CGS § 22a-6u (9)).

Licensed Environmental Professional

The DEP licenses environmental professionals, who are people qualified by reason of their knowledge to engage in activities associated with the investigation and remediation of pollution and sources of pollution, including the rendering or offering to render to

clients professional services in connection with the investigation and remediation of pollution and sources of pollution (CGS § 22a-133v).

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 16 Nay 14 (03/20/2009)